

The Examiner rejected claims 1-4, 6-12, 14, 17, 18, 21 and 22 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,112,141 to Briffe et al. Applicants respectfully traverse this rejection.

The Examiner states that the teaching disclosed by Briffe, i.e., a return to a pre-existing display after a button is pressed, is considered an equivalent teaching to applicants' recited limitation in claims 1, 9, 14 and 21 of "a graphical user interface returns a display shown on said display to a pre-existing display, without user input, upon a passage of time." Applicants' response to such assertions, as discussed below, is as follows: (a) the transitional phrase "comprising" does not permit the use of equivalence to anticipate any of applicants' claims; (b) The disclosure of Briffe is not equivalent to applicants' claimed invention; and (c) the "equivalence" asserted by the Examiner is not sufficient for a finding of obviousness.

The Examiner asserts that use of the open-ended transitional phrase "comprising" means that applicants' claims could include any equivalent limitations. However, as recited in MPEP § 2111.13, transitional phrases "define the scope of a claim with respect to what *unrecited additional components or steps, if any, are excluded* from the scope of the claim." Applicants' use of the transitional phrase "comprising" is consistent with its definition of being inclusive or open-ended and not excluding additional, unrecited elements or method steps. See, e.g., *Genentech, Inc. v. Chiron Corp.*, 112 F.3d 495, 501, 42 USPQ2d 1608, 1613 (Fed. Cir. 1997) ("Comprising" is a term of art used in claim language which means that the named elements are essential, but other elements may be added and still form a construct within the scope of the claim.); *Moleculon Research Corp. v. CBS, Inc.*, 793 F.2d 1261, 229 USPQ 805 (Fed. Cir. 1986); *In re Baxter*, 656 F.2d 679, 686, 210 USPQ 795, 803 (CCPA 1981); *Ex parte Davis*, 80 USPQ 448, 450 (Bd. App. 1948) ("comprising" leaves "the claim open for the inclusion of unspecified ingredients even in major amounts").

In the present case, applicants' recital of "a graphical user interface that returns a display shown on a display to a pre-existing display, without user input, upon a passage of time" as claimed in claim 1, 9, 14 and 21, is an element not

found in Briffe. Applicants believe the Examiner is incorrect in relying on the transitional phrase "comprising" to demonstrate the applicability of an alleged equivalent disclosure in the cited art. Equivalence relevant to a finding of obviousness, and is not suggested or introduced into a claim by using a particular transitional phrase.

In addition, Briffe does not disclose all of the elements of applicants' invention as recited in independent claims 1, 9, 14 and 21 because it does not describe a "graphical user interface that returns a display shown on a display to a pre-existing display, without user input, upon a passage of time," and those claims are therefore not anticipated by Briffe. Independent claims 1, 9, 14 and 21 are therefore allowable, and all claims depending therefrom are also allowable.

Applicants disagree with the Examiner's assertion that Briffe's manual switching of a display to a pre-existing display is "equivalent" to applicants' return to a pre-existing display without user input upon a passage of time. The purpose of applicants' invention is to eliminate the requirement for pilot input in difficult flying conditions:

During times of heavy turbulence, otherwise very simple tasks can become too difficult and too time consuming. For example, ...[r]equiring the pilot to manipulate a knob or button to return to an immediately pre-existing view setting may also require too much attention during critical times....In general, during take-off and approach, the workload on a pilot can already be extreme, leaving the pilot with little or no time to spare. Any additional effort, at an already busy time, is quite undesirable.

(Background of the Invention, p. 3 line 15 – p. 4 line 4).

With this in mind, applicants have invented an avionics system comprising, among other things, a graphical user interface that returns a display shown on a display to a pre-existing display, *without user input, upon a passage of time*. Such a time-based return to a pre-existing display eliminates the need for manual input and reduces the workload of a pilot using such a system and is therefore not equivalent to the system of Briffe where manual input is required. The Examiner has not shown how a system requiring user input, as with Briffe, is


"equivalent" to applicants' system that does *not* require user input, as recited in claims 1, 9, 14 and 21. Indeed, the Examiner has merely asserted equivalence between the two systems without providing evidence of such equivalence.

If the Examiner means to say that it would be obvious to replace applicants' passive system with Briffe's active system, the Examiner has not provided a teaching in the cited art to suggest such a substitution or equivalence. It is well settled that in order to rely on equivalence as a rationale supporting an obviousness rejection, the equivalency must be recognized in the prior art, and cannot be based on applicant's disclosure or the mere fact that the components at issue are functional or mechanical equivalents. *In re Ruff*, 256 F.2d 590, 118 USPQ 340 (CCPA 1958) (emphasis added). The Examiner has not shown in Briffe any teaching or statement that the system requiring user input as described therein is an equivalent to applicants' invention, and merely asserting that the methods at issue are functionally "equivalent" is insufficient, in and of itself, to support a finding of obviousness. Applicants' invention, as recited in independent claims 1, 9, 14 and 21 and as described above, is therefore not obvious in view of the cited art, and the said claims are allowable over the cited art. The remaining pending claims depend from one of the allowable independent claims and are allowable for at least the reasons the allowable independent claims are allowable.

Accordingly, with the entry of this amendment and upon consideration of the remarks contained herein, all pending claims are now allowable, and a Notice of Allowance is earnestly solicited. The Examiner is requested to contact the undersigned attorney if further issues remain in the prosecution of this application.

Respectfully submitted,

Rockwell Collins, Inc.
Intellectual Property Department
400 Collins Road, NE M/S 124-323
Cedar Rapids, IA 52498
Telephone No.: (319) 295-1184
Facsimile No.: (319) 295-8777
Customer No.: 26383


Nathan O. Jensen
Attorney for Applicant
Reg. No. 41,460